IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

WP(C).No. 17776 of 2007(N)

PETITIONER:

M/S. G.SATISH KUMAR, S/O. B.GOVINDA
NAYAK, AGED 50 YEARS, IV/1265 A,
MANJABHAGWATI LANE, CHERLAI, KOCHI-2.

BY ADV. SRI.K.N.SIVASANKARAN
SRI.K.I.MAYANKUTTY MATHER
SRI.SUNIL SHANKER

RESPONDENTS:

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1. SPECIAL TAHSILDAR (R.R.),
KOCHI.

2. GOVIND KAMATH,
CC 8/2215, RAMESWARAM PADINJARA MURI,
MATTANCHERY P.O., KOCHI-682 002.

3. SAILESH KUMAR,
CC 6/2001, RAMESWARAM PADINJARA MURI,
MATTANCHERY P.O., KOCHI-682 002.

4. M/S. V.J.ENTERPRISES,
MATTANCHERRY, KOCHI-682 002.

R1 BY G.P. SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 17776 OF 2007

Dated this the 19th day of June, 2007

JUDGMENT

Petitioner purchased property from respondents 2 and 3 who in turn purchased the property from the defaulters who owe over Rs. 1.68 crores towards sales tax liability. Transfers effected by the defaulters obviously are subject to tax liability by virtue of Section 26A of the KGST Act. Government Pleader submitted that transfer was effected even after service of notice under the RR Act and therefore charge is created by operation of Section 44 of the RR Act also. In any case there is no need for this court to consider the validity of transfers effected by defaulters because the recovery authority has authority to decide it in proceedings under Section 46 of the RR Act. Petitioner is free to file claim petition before the first respondent who will consider and pass orders thereon before effecting sale of property purchased by the petitioner. If sale to respondents 2 and 3 is found invalid or subject to tax liability then the subsequent sale to petitioner will be subject to the same disability or charge. Therefore first respondent will consider

the validity of first transfer and then consider transfer in favour of the petitioner and decide the matter.

W.P. is closed with the above directions.

(C.N.RAMACHANDRAN NAIR)
Judge